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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Albania, Andorra, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Chile, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Slovakia, Netherlands, Norway, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland and Uruguay: draft resolution

Extrajudicial, summary or arbitrary executions

The General Assembly,

Recalling the Universal Declaration of Human Rights,[1] which guarantees the right to life, liberty and security of person, the relevant provisions of the International Covenant on Civil and Political Rights[2] and other relevant human rights conventions,

Reaffirming the mandate of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, as set out in Council resolution 8/3 of 18 June 2008,[3]

Welcoming the universal ratification of the Geneva Conventions of 12 August 1949,[4] which alongside human rights law provide an important framework of accountability in relation to extrajudicial, summary or arbitrary executions during armed conflict,

[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53* (A/63/53), chap. III, sect. A.

[4] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

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Mindful of all its resolutions on the subject of extrajudicial, summary or arbitrary executions and the resolutions of the Commission on Human Rights and of the Human Rights Council on the subject,

Noting with deep concern that impunity continues to be a major cause of the perpetuation of violations of human rights, including extrajudicial, summary or arbitrary executions,

Acknowledging that international human rights law and international humanitarian law are complementary and mutually reinforcing,

Noting with deep concern the growing number of civilians and persons *hors de combat* killed in situations of armed conflict and internal strife,

Acknowledging that extrajudicial, summary or arbitrary executions may under certain circumstances amount to genocide, crimes against humanity or war crimes, as defined in international law, including in the Rome Statute of the International Criminal Court,[5] and recalling in this regard that each individual State has the responsibility to protect its populations from such crimes as set out in General Assembly resolutions 60/1 of 16 September 2005 and 63/308 of 14 September 2009,

Convinced of the need for effective action to prevent, combat and eliminate the abhorrent practice of extrajudicial, summary or arbitrary executions, which represent flagrant violations of human rights, particularly the right to life,

1. *Strongly condemns once again* all the extrajudicial, summary or arbitrary executions that continue to occur throughout the world;

2. *Demands* that all States ensure that the practice of extrajudicial, summary or arbitrary executions is brought to an end and that they take effective action to prevent, combat and eliminate the phenomenon in all its forms and manifestations;

3. *Reiterates* the obligation of all States to conduct exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions, to identify and bring to justice those responsible, while ensuring the right of every person to a fair and public hearing by a competent, independent and impartial tribunal established by law, to grant adequate compensation within a reasonable time to the victims or their families, and to adopt all necessary measures, including legal and judicial measures, to put an end to impunity and to prevent the further occurrence of such executions, as recommended in the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions;[6]

4. *Calls upon* Governments and invites intergovernmental and non-governmental organizations to pay greater attention to the work of national level commissions of inquiry into extrajudicial, summary or arbitrary executions with a view to ensuring the effective contribution of these commissions to accountability and to combating impunity;

5. *Calls upon* all States, in order to prevent extrajudicial, summary and arbitrary executions, to comply with their obligations under relevant provisions of international human rights instruments, and further calls upon those States which

[5] Ibid., vol. 2187, No. 38544.

[6] Economic and Social Council resolution 1989/65, annex.

have not abolished the death penalty to pay particular regard to the provisions contained in articles 6, 14 and 15 of the International Covenant on Civil and Political Rights[2] and articles 37 and 40 of the Convention on the Rights of the Child,[7] bearing in mind the safeguards and guarantees set out in Economic and Social Council resolutions 1984/50 of 25 May 1984 and 1989/64 of 24 May 1989, and taking into account the recommendations of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions regarding the need to respect essential procedural guarantees, including the right to seek pardon or commutation of sentence;

6. *Urges* all States:

(a) To take all necessary and possible measures, in conformity with international human rights law and international humanitarian law, to prevent loss of life, in particular that of children, during public demonstrations, internal and communal violence, civil unrest, public emergencies or armed conflicts, and to ensure that the police, law enforcement agents, armed forces and other agents acting on behalf of or with the consent or acquiescence of the State act with restraint and in conformity with international human rights law and international humanitarian law, including the principles of proportionality and necessity, and in this regard to ensure that police and law enforcement officials are guided by the Code of Conduct for Law Enforcement Officials[8] and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;[9]

(b) To ensure the effective protection of the right to life of all persons under their jurisdiction and to investigate promptly and thoroughly all killings, including those targeted at specific groups of persons, such as racially motivated violence leading to the death of the victim, killings of persons belonging to national or ethnic, religious and linguistic minorities, killings of persons affected by terrorism, hostage taking or foreign occupation, killings of refugees, internally displaced persons, migrants, street children or members of indigenous communities, killings of persons for reasons related to their activities as human rights defenders, lawyers, journalists or demonstrators, killings committed in the name of passion or in the name of honour, all killings committed for any discriminatory reason, including sexual orientation, as well as all other cases where a person's right to life has been violated, and to bring those responsible to justice before a competent, independent and impartial judiciary at the national or, where appropriate, international level, and to ensure that such killings, including those committed by security forces, police and law enforcement agents, paramilitary groups or private forces, are neither condoned nor sanctioned by State officials or personnel;

7. *Affirms* the obligation of States, in order to prevent extrajudicial, summary or arbitrary executions, to protect the lives of all persons deprived of their liberty in all circumstances and to investigate and respond to deaths in custody;

8. *Urges* all States to ensure that persons deprived of their liberty are treated humanely and with full respect for their human rights and to ensure that their

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[7] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[8] Resolution 34/169, annex.

[9] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.

treatment, including judicial guarantees, and conditions conform to the Standard Minimum Rules for the Treatment of Prisoners[10] and, where applicable, to the Geneva Conventions of 12 August 1949[4] and the Additional Protocols thereto, of 8 June 1977[11] in relation to all persons detained in armed conflict, as well as to other pertinent international instruments;

9. *Also urges* States to prevent and, where such situations exist, to end prisoner control of prisons, bearing in mind that such situations do not exempt the State from its human rights obligations, including the protection against extrajudicial, summary or arbitrary executions;

10. *Welcomes* the International Criminal Court as an important contribution to ending impunity concerning extrajudicial, summary or arbitrary executions, and, taking note of the growing awareness of the Court worldwide, calls upon those States that are under an obligation to cooperate with the Court to provide such cooperation and assistance in the future, in particular with regard to arrest and surrender, the provision of evidence, the protection and relocation of victims and witnesses and the enforcement of sentences, and further welcomes the fact that one hundred and thirteen States have already ratified or acceded to and one hundred and thirty-nine States have signed the Rome Statute of the Court,[5] and calls upon all those States that have not ratified or acceded to the Rome Statute to give serious consideration to doing so;

11. *Acknowledges* the importance of ensuring the protection of witnesses for the prosecution of those suspected of extrajudicial, summary or arbitrary executions, and urges States to intensify efforts to establish and implement effective witness protection programmes or other measures, and in this regard encourages the Office of the United Nations High Commissioner for Human Rights to develop practical tools designed to encourage and facilitate greater attention to the protection of witnesses;

12. *Encourages* Governments and intergovernmental and non-governmental organizations to organize training programmes and to support projects with a view to training or educating military forces, law enforcement officers and government officials in human rights and humanitarian law issues connected with their work and to include a gender and child rights perspective in such training, and appeals to the international community and requests the Office of the High Commissioner to support endeavours to that end;

13. *Expresses its concern* over the occurrence of vigilante killings around the globe, encourages States, in order to support efforts to prevent and end such killings, to undertake or facilitate systematic studies of the phenomenon, with a view to taking context-specific and focused action, including necessary legislative, judicial, administrative, educative and other measures, and requests the Office of the High Commissioner and other relevant United Nations entities, upon request, to support such studies and their follow-up;

14. *Takes note* of the potential of new technologies in the prevention and investigation of extrajudicial, summary or arbitrary executions, encourages the Office of the High Commissioner to convene, within existing resources, a consultation of

[10] *Human Rights: A Compilation of International Instruments*, Volume I (First Part): *Universal Instruments* (United Nations publication, Sales No. E.02.XIV.4 (Vol. I, Part 1)), sect. J, No. 34.

[11] United Nations, *Treaty Series*, vol. 1125, Nos. 17512 and 17513.

information and communications technology experts, humanitarian and human rights actors with experience in using new technologies, relevant private actors and Member States to discuss the current and potential human rights applications of new technologies and the risks and obstacles to their effective use, and invites the Office of the High Commissioner to prepare a report on the outcome of the consultation, in the form of a summary of discussions;

15. *Takes note with appreciation* of the reports of the Special Rapporteur to the General Assembly;[12]

16. *Commends* the important role that the Special Rapporteur plays towards the elimination of extrajudicial, summary or arbitrary executions, and encourages the Special Rapporteur to continue, within his mandate, to collect information from all concerned, to respond effectively to reliable information that comes before him, to follow up on communications and country visits and to seek the views and comments of Governments and to reflect them, as appropriate, in his reports;

17. *Acknowledges* the important role of the Special Rapporteur in identifying cases where extrajudicial, summary and arbitrary executions could amount to genocide and crimes against humanity or war crimes, and urges him to collaborate with the United Nations High Commissioner for Human Rights and, as appropriate, the Special Adviser to the Secretary-General on the Prevention of Genocide, in addressing situations of extrajudicial, summary or arbitrary executions that are of particularly serious concern or in which early action might prevent further deterioration;

18. *Welcomes* the cooperation established between the Special Rapporteur and other United Nations mechanisms and procedures in the field of human rights, and encourages the Special Rapporteur to continue efforts in that regard;

19. *Urges* all States, in particular those that have not done so, to cooperate with the Special Rapporteur so that his mandate can be carried out effectively, including by favourably and rapidly responding to requests for visits, mindful that country visits are one of the essential tools for the fulfilment of the mandate of the Special Rapporteur, and by responding in a timely manner to communications and other requests transmitted to them by the Special Rapporteur;

20. *Expresses its appreciation* to those States that have received the Special Rapporteur and asks them to examine his recommendations carefully, invites them to inform him of the actions taken on those recommendations, and requests other States to cooperate in a similar way;

21. *Again requests* the Secretary-General to continue to use his best endeavours in cases where the minimum standards of legal safeguards provided for in articles 6, 9, 14 and 15 of the International Covenant on Civil and Political Rights appear not to have been respected;

22. *Requests* the Secretary-General to provide the Special Rapporteur with adequate human, financial and material resources to enable him to carry out his mandate effectively, including through country visits;

23. *Also requests* the Secretary-General to continue, in close collaboration with the High Commissioner, in conformity with the mandate of the High Commissioner

[12] See A/64/187 and A/65/321.